

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 OIC-02 CIAE-00 DODE-00 PM-04
H-01 INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02
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LIMITED OFFICIAL USE VIENNA 3458

E.O. 11652: N/A
TAGS: UN, PFOR
SUBJECT: CONFERENCE ON SUCCESSION OF STATES TO TREATIES

REF: VIENNA 3020

BEGIN SUMMARY: UNOFFICIAL WORKING GROUP SPENT FROM 0900 TO
1030 HOURS AND FROM 2000 TO 2300 HOURS, APRIL 28 IN FUTILE
EFFORT TO RESOLVE PROBLEMS ARISING OUT OF ARTICLE 7 ON
NON-RETROACTIVE ASPECTS OF DRAFT CONVENTION ON SUCCESSION
OF STATES TO TREATIES. END SUMMARY

1. CONFERENCE HAS BEEN USING INFORMAL WORKING GROUP
COMPOSED OF REPRESENTATIVES OF ALL INTERESTED DELEGATIONS
IN EFFORT TO SEEK SOLUTION TO CONTROVERSIAL ISSUES ON
CONSENSUS BASIS. FOLLOWING DEBATE IN PLENARY REPORTED
REF TEL CUBAN-SOMALIA, USA AND UK PROPOSALS REGARDING
NON-RETROACTIVE ASPECTS OF CONVENTION WERE REFERRED TO
WORKING GROUP. IN ADDITION SOVIET DELEGATION INTRODUCED
PAPER INTO WORKING GROUP CONTAINING A PROPOSAL FOR AMENDMENT
WHICH AFTER ELIMINATION OF CONSIDERABLE VERBIAGE MERELY
PROVIDES THAT SUCCESSOR STATE MAY ENTER INTO
AGREEMENT WITH PARTIES TO RELEVANT AGREEMENT PROVIDING
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FOR APPLICATION OF CONVENTION TO SUCCESSIONS WHICH TOOK
PLACE PRIOR TO ENTRY INTO FORCE OF CONVENTION. SUCH
LATITUDE IS ALREADY IMPLICIT IN ARTICLE 7 AS DRAFTED BY
INTERNATIONAL LAW COMMISSION AND, AT ALL EVENTS, WOULD
FALL WITHIN THE SCOPE OF ARTICLE 30 ON SUCCESSIVE
TREATIES IN VIENNA CONVENTION ON THE LAW OF TREATIES.

2. US IN WORKING GROUP, IN ORDER TO MEET OBJECTIONS
VOICED BY NUMBER OF DELEGATIONS TO PARA B OF ITS AMEND-
MENT CONTAINED IN REF TEL INTRODUCED THE FOLLOWING REVISED
VERSION IN WORKING GROUP.

QUOTE ARTICLE 7 (US PROPOSAL)

WITHOUT PREJUDICE TO THE APPLICATION OF ANY OF THE
RULES SET FORTH IN THE PRESENT ARTICLES TO WHICH THE
EFFECTS OF A SUCCESSION OF STATES WOULD BE SUBJECT UNDER
INTERNATIONAL LAW INDEPENDENTLY OF THESE ARTICLES, THE
PRESENT ARTICLES APPLY:

A) IN RESPECT OF A SUCCESSION OF STATES WHICH
HAS OCCURRED AFTER THE ENTRY INTO FORCE OF THESE ARTICLES
EXCEPT AS MAY BE OTHERWISE AGREED;

B) IN RESPECT OF A SUCCESSION OF STATES WHICH HAS
OCCURRED BEFORE THE ENTRY INTO FORCE OF THESE ARTICLES
TO ANY TREATY IN FORCE WITH RESPECT TO A TERRITORY AT
THE DATE OF SUCCESSION WHOSE CONTINUATION OR NON-
CONTINUATION IN FORCE SUBSEQUENT TO THE SUCCESSION AS
TO ALL OR PART OF THE SUCCESSOR STATE HAS NOT BEEN
FINALLY DETERMINED PRIOR TO THE ENTRY INTO FORCE OF THESE
ARTICLES. UNQUOTE.

3. SOME DISCUSSION OF VARIOUS PROPOSALS TOOK PLACE AT
INFORMAL WORKING GROUP MEETING ON NIGHT OF APRIL 25 WITH
INCONCLUSIVE RESULTS ALTHOUGH SUPPORT FOR BOTH US AND
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CUBAN PROPOSALS DEVELOPED.

4. TWO LENGTHY MEETINGS ON APRIL 28 RESULTED IN LITTLE
MORE THAN REITERATED ASSERTIONS OF PROBLEMS RELATING TO
RETROACTIVITY OR NON-RETROACTIVITY AND DEVELOPMENT OF FAILURE
OF PROPOSED DRAFTS TO SOLVE ALL POSSIBLE PROBLEMS.

5. ONE DIFFICULTY WITH WORKING GROUP IS VERY LIMITED
ATTENDANCE BY REPRESENTATIVES OF AFRICAN GROUP AND
RELATIVELY LITTLE ATTENDANCE FROM ASIAN GROUP. THERE
HAS BEEN A COALESCENCE OF THE "NON-ALIGNED GROUP"
CONSISTING OF AFRICAN, ASIAN AND LATIN AMERICAN REPRESENTATIVES
WITH THE COROLLARY THAT POSITIONS WILL BE DECIDED IN
THAT GROUP AND BE PRESENTED TO OTHERS AS FAIT ACCOMPLI.

6. AT LATE STAGE IN EVENING MEETING SOVIETS WITHDREW
THEIR PROPOSED AMENDMENT IN FAVOR OF THE CUBAN PROPOSAL.
WE SUSPECT THAT SUPPORT FOR CUBAN PROPOSAL IS BASED UPON
APPRECIATION OF ITS INNATE UNWORKABILITY.

7. AS A CONSEQUENCE OF THIS LACK OF PROGRESS, DISCUSSION
IN WORKING GROUP AT ABOUT 2200 HOURS TURNED TO QUESTION
OF ABILITY OF CONFERENCE TO COMPLETE ITS WORK. THERE
WAS SUBSTANTIAL AGREEMENT THAT THERE WAS NO PROSPECT
WHATSOEVER OF EVEN COMPLETING A FIRST REVIEW OF ALL
THE ILC ARTICLES WITHIN THE REMAINING ALLOWED TIME.
AS A RESULT OF THIS, A NUMBER OF REPRESENTATIVES PROPOSED
THAT DECISION ON ARTICLE 7 SHOULD BE POSTPONED UNTIL
A RESUMED SESSION OF THE CONFERENCE IN 1978. US
SUPPORTED BY A FEW REPRESENTATIVES URGED THAT CONTINUED
EFFORTS BE MADE THROUGH THE NEXT FEW DAYS TO REACH AGREED
SOLUTION AND OFFERED TO MEET IN DRAFTING SESSION WITH
CUBAN ALIGNED GROUP AND ANY OTHER INTERESTED REPRESENTATIVES
TO SEE IF COMPOSITE DRAFT WERE POSSIBLE. HOWEVER, THERE WAS
NO RESPONSE TO PROPOSAL WHICH SUPPORTS THE CONCLUSION
THAT IF REVISIONS ARE TO BE MADE IN PROPOSALS THEY SHOULD
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FIRST SURFACE FROM NON-ALIGNED. LIKE ALL OTHER QUESTIONS
REGARDING ARTICLE 7 NO DECISION WAS REACHED ON WHETHER
IT WOULD BE DISPOSED OF BEFORE END OF PRESENT SESSION.MEEHAN

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Message Attributes

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